

## **ORDINANCE 2017-09**

### **AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA PROVIDING FOR REGISTRATION OF ELECTRICIANS, MECHANICAL CONTRACTORS AND PLUMBERS**

WHEREAS, it is in the interests of the Town of Whitestown, Indiana ("Whitestown" or "Town") to promote the use of qualified, competent and insured electricians, plumbers and mechanical contractors for purposes of promoting proper building standards and safeguarding public health, safety and welfare; and,

WHEREAS, the Town Council of the Town of Whitestown, Indiana ("Town Council") desires to require registration for electricians, plumbers and mechanical contractors providing services to citizens and businesses within Town limits; and,

WHEREAS, pursuant to IC 36-7-2-4, the Town may regulate the methods of, and use of materials in repair, alteration and construction of structures and other improvements, and require the execution of a bond by any person repairing, altering or constructing structures or other improvements; and

WHEREAS, pursuant to IC 25-28.5-1-33, the Town may require any person licensed as a plumbing contractor by the state to register with the Town; and

WHEREAS, registration of electricians, plumbers and mechanical contractors ensures that the Town officials have the records necessary to enforce building codes.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Whitestown, Indiana, that a new Article is created providing for registration of electricians, mechanical contractors and plumbers.

Section 1. All persons, partnerships and corporations performing electrical, plumbing or mechanical contracting in the Town of Whitestown shall be required to be registered with the Building Department. No registration under the provisions of this article shall be assigned or transferred.

- a. The term "electrical contracting" shall mean any person, partnership or corporation engaged in the business of making electrical installations or any electrical work requiring a permit.
- b. The term "plumbing contracting" shall mean any person, partnership or corporation engaged in the business of making plumbing installations or performs any plumbing work for which a permit is required.
- c. The term "mechanical contracting" shall mean any person, partnership or corporation engaged in the business of making a heating, ventilation, air conditioning, or refrigeration installation, or performs any mechanical work for which a permit is required.

Section 2. Contractors registering with the Town shall meet the insurance requirements listed within this section, provide a copy of any applicable State of Indiana license, pay a fifty dollar (\$50) fee and complete an application as provided by the Building Department. All current contractors shall submit an initial registration form and fee by May 1, 2017. Registrations shall be in effect until December 31 of the year of issuance and thereafter, the subsequent registration applications and fee shall be due by January 1 of each year. The contractor will be required to update the registration within thirty (30) days of any change in address, change in ownership, or any other material changes thereto.

Section 3. A contractor registration may be refused, suspended or revoked by the Building Department by reason of the occurrence of one or more of the following:

- a. Fraud or misrepresentation in obtaining any Town of Whitestown license, registration, or permit;
- b. Violation of a provision of the building codes of the State of Indiana or the Town of Whitestown.
- c. A conviction or judicial judgment related to the defrauding of a person or business for whom the contractor has rendered or contracted to render service;
- d. Failure to obtain a permit or the attempted assignment of a permit; or
- e. When a state license related to the Contractor Registration qualification is expired or suspended for any reason.

Section 4. A contractor registration shall include a surety bond in the amount of ten thousand dollars (\$10,000.00) that meets the following requirements:

Such a bond shall be maintained in full force and effect for the full period of the registration. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be

- (1) Issued by a surety authorized to do business in Indiana;
- (2) Payable to the Town of Whitestown or an unknown third party as obligee; and
- (3) Conditioned upon the following:
  - (i) prompt payment to the Town for any loss or expense for damages to property of the Town caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers in violation of requirements of state statute or town code; and
  - (ii) prompt payment to a person, partnership or corporation that is an unknown third party obligee for any losses arising out of violations; expenses necessary to correct violations; and court costs and

attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violation of requirements of state statute or town code, on property of the unknown third party obligee, caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers. However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or improper workmanship violates requirements of state statute or town code.

Section 5. A contractor registration shall include a policy certificate of public liability and property damage insurance insuring the contractor and naming the Town as an "additional insured," providing for the payment of any liability imposed by law on such listed contractor or the Town arising out of operations being performed by or on behalf of the listed contractor in the minimum amounts of five hundred thousand dollars (\$500,000.00) for combined bodily injury and property damage coverage of five hundred thousand dollars (\$500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons and one hundred thousand dollars (\$100,000.00) for any occurrence relative to which there is damage to property.

Section 6. A contractor registration must include a Worker's Compensation insurance certificate covering employees for death or injury arising out of operations being performed by or on behalf of the listed contractor. A certificate of such insurance shall be delivered to the Building Department. This provision shall not apply if the listed contractor has no employees and gives appropriate notice to the Building Department on the registration application. The insurance carrier shall give notice both to the listed contractor and the Building Department services at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation.

Section 7. Any violation of any provision of this Ordinance shall subject the violating party to a fine not to exceed five hundred Dollars (\$500.00). Each day that a violation continues or remains uncured shall constitute a separate offense. No enforcement remedy is a prerequisite or a bar to any other remedy, and the enforcement mechanism shall be in the discretion of the Building Superintendent. Any enforcement remedy further does not relieve the user of liability for any violation occurring before or after the implementation of any respective enforcement remedy. The enforcement remedies also do not create any rights in the user or any third party.

Section 8. The provisions of this Ordinance are severable, and the invalidity of any phrase, clause or part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance. All ordinances and parts of ordinances inconsistent or in conflict with the terms of this Ordinance are repealed to the extent of such inconsistency or conflict. Nothing in this Ordinance shall repeal or otherwise alter the Town's Building Code or other property-related ordinances.

Section 9. This Ordinance does not and is not intended to create or confer any rights, interests, or remedies in any third party with respect to the Town, including but not limited to,

any occupant, utility customer, user, tenant, or property owners. Except as otherwise required by applicable law, failure to comply with any policy or procedure herein, or any portion thereof, shall not invalidate any otherwise appropriate actions, determination, fee, etc., of the Town or the local utility, or create any cause of action against the Town. Registration of a contractor with the Town is not an endorsement, and the Town does not recommend, certify, or guarantee the work, services, or product of any contractor.

Section 10. This Ordinance shall be in full force and effect from and after its passage.

Adopted by the Town Council of the Town of Whitestown, Indiana, on the \_\_\_\_ day of \_\_\_\_\_, 2017.

THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA	YAY/NAY
_____ Eric Miller, President	_____
_____ Susan Austin, Vice-President	_____
_____ Kevin Russell	_____
_____ Clinton Bohm	_____
_____ Jeffrey Wishek	_____

**ATTEST:**

\_\_\_\_\_  
Matthew Sumner, Clerk-Treasurer  
Town of Whitestown, Indiana